

Jwala Rambarran: Improving financial consumer protection

Introductory remarks by Mr Jwala Rambarran, Governor of the Central Bank of Trinidad and Tobago, at the 2013 Annual Breakfast Meeting of the Financial Services Ombudsman (OFSO), Port of Spain, 26 April 2013.

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Ladies and Gentlemen, On behalf of the Central Bank, I extend a sincere welcome to the tenth Annual Breakfast Meeting of the Office of Financial Services Ombudsman (OFSO). The OFSO's tenth anniversary celebration comes at a time when the global financial crisis highlighted the significant risks that weak financial consumer protection poses to stability of the world's financial system. The consumer as depositor, policyholder, saver and borrower is the central actor in the financial marketplace. Worldwide, some 150 million new consumers join the financial market each year. Yet, ironically, the consumer's voice is often the weakest and, very often, is not heard. For this reason, the international community has increased its focus on how to better protect financial consumers. The G20 has adopted nine High-level Principles for Financial Consumer Protection. Of immediate relevance to the Ombudsman's Office is Principle 9, which speaks to consumers having access to adequate complaints handling and redress mechanisms that are accessible, affordable, independent, fair, accountable, timely and efficient.

The World Bank has also released its Good Practices for Financial Consumer Protection. The Good Practices are intended to be used primarily as a diagnostic tool to answer the question, "How does a country's legal and regulatory framework for financial consumer protection compare to international practice?" Our own recent financial turmoil arising from the failure of CLICO, CLICO Investment Bank and the Hindu Credit Union suggests that financial consumer protection, financial literacy and financial education are key priorities for regulators. As many of you are aware, tin is the traditional gift of the tenth anniversary. Many explanations abound as to why tin was chosen as the gift for the tenth anniversary. One explanation is that the flexibility of tin represents the flexibility of a good relationship, the give and take that makes a relationship strong. Another explanation relates to the use of tin to stop corrosion and thus keep food safe. In this meaning, tin symbolizes preservation and longevity. Whatever the meaning, it is clear that the Ombudsman's Office has demonstrated the good qualities associated with tin and can claim many successes over its ten years of operation. Some of these achievements are as follows:

- The OFSO remains the only financial ombudsman scheme in the Caribbean and is a respected member of the International Network of Financial Services Ombudsman Schemes.
- Of the 230 banking complaints which qualified for review under its Terms of Reference, the OFSO resolved an impressive 98 per cent over the period 2003–2012. More than 45 per cent of these complaints, which were directed toward issues related to accounts transactions, card services and loans and credit, were settled within 90 days;
- Of the 2,076 insurance complaints which qualified for review under its terms of reference, the OFSO resolved an equally impressive 97 per cent over 2005–2012. At least two-thirds of these complaints, mainly relating to undue delay in settling claims, inadequate settlement and denial of claims, were settled within 90 days;
- Creation of the Ombudsman's Office has catalyzed banks and insurance companies into strengthening their own internal dispute resolution mechanisms to better address customers' complaints. More than one-quarter of the complaints handled by banks were resolved by agreement between the two parties. In the case of

insurance companies, more than two-thirds of the complaints were resolved by agreement between the insurers and clients.

The OFSO has, therefore, earned the right to begin the transition to a more prominent role in the country's financial architecture.

Against this background, the Central Bank and the OFSO commissioned Mr. David Thomas, who served as Chairman of the International Network of Financial Services Ombudsman Schemes and was the Chief Ombudsman of the Financial Ombudsman Service in the United Kingdom, to prepare a report on upgrading the existing regime of financial consumer protection in line with international best practice. We have received the Draft Report entitled "**Financial Services Ombudsman in Trinidad and Tobago: A Strategy for the Future.**" The study highlights several issues which we need to take into account in crafting a financial ombudsman scheme that complies with the fundamental principles of independence, fairness, clarity of scope and powers, effectiveness and efficiency, and accessibility, transparency and accountability. Please allow me to elaborate on what I consider to be some of the critical design issues, going forward.

Perhaps the first and most critical design issue relates to changing the voluntary nature of the Financial Services Ombudsman regime to one under-pinned by legislative authority. The voluntary nature of the Ombudsman scheme has restricted the jurisdiction of the Office to a narrow list of complaints to which banks and insurance companies have agreed. In thinking about the statutory backing for the Ombudsman's Office, it may be necessary to have a flexible legal framework where the foundations are enshrined in law, but scope and operational arrangements are set in regulations. Independent governance is a second, critical design issue. Ideally, the Office of the Financial Services Ombudsman should be independent of consumers and of the financial services industry, whose disputes are being handled. In deciding cases, the Ombudsman also needs to be independent of the Central Bank, because the Ombudsman is acting as an alternative to the courts. So it is helpful for the Ombudsman Office to have an independent board, with a balanced membership reflecting persons with an understanding of regulation, the financial industry and consumer protection. A third design issue revolves around the coverage of financial businesses. A significant number of complaints received by the Ombudsman are outside its Terms of Reference. The Office received 409 banking complaints which were outside its Terms of Reference in 2003–2012, 179 more than the qualified banking complaints it received for review. In 2011–2012, the Office received 1,173 enquiries regarding complaints outside the banking and insurance sectors.

Many complaints which fall outside the Ombudsman's Terms of Reference relate to bank fees and pricing of bank products and services, lapsed insurance policies, insurance premium charged, personal injury for motor vehicle accidents, credit union shares and loans, and general pain and suffering. Expanding the Ombudsman's mandate to include credit unions, the Unit Trust Corporation, pension schemes and mutual funds would go a long way in strengthening the credibility of the scheme. Finally, in order to deliver on this expanded mandate the OFSO would need to be better resourced with the skill sets and talent as its jurisdiction and workload grows. The staff complement in the Ombudsman's Office are currently seconded from, or approved by, the Central Bank. Once a statutory Financial Services Ombudsman is established the Ombudsman would appoint the staff who would work for the Scheme and not be seconded from the Central Bank. The Central Bank and the OFSO will be reviewing the Draft Report. Once finalized and accepted, the Final Report will form the basis for a Proposed Policy Document (PPD) on upgrading the regime of financial consumer protection. The PPD will serve as the starting point for initial discussions and consultations with key stakeholders in the financial services industry. Subsequently, a revised PPD will be used to finalize the various policy provisions of draft legislation relating to a statutory Financial Services Ombudsman. We anticipate the entire process to run for at least one year.

Ladies and Gentlemen, I would like to conclude by congratulating Ms. Suzanne Roach, the current Financial Services Ombudsman, her predecessors, and their respective staff, for shaping a formidable institution over the past decade. I would also like to thank BATT, ATTIC and the THA for their unstinting support for the Ombudsman scheme. I certainly look forward to the Office of the Financial Services Ombudsman assuming a more prominent role in the country's financial strategy over the next decade. I thank you.